

HAWAII ADMINISTRATIVE RULES

TITLE 12

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

SUBTITLE 7

BOARDS

CHAPTER 48

HOISTING MACHINE OPERATORS

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§12-48-1 Purpose. This chapter implements section 396-19, Hawaii Revised Statutes, and promulgates rules for the certification of hoisting machine operators. The provisions of this chapter shall apply to any person or persons who act as a hoisting machine operator. [Eff 12/6/02] (Auth: HRS §396-4) (Imp: HRS §§396-4, 396-19)

§12-48-2 Scope. Certification of hoisting machine operators is limited to operators of equipment covered by ASME B30.5, and which has a lifting capacity of more than five tons, and who performs construction work as defined by section 12-50-2, Hawaii Administrative Rules. [Eff 12/6/02] (Auth: HRS §396-4) (Imp: HRS §§396-4, 396-19)

§12-48-3 Definitions. As used in this chapter: "ASME B30.5" means ASME B30.5-2000, American Society of Mechanical Engineers Safety Standards, which also includes the Addenda ASME B30.5a-2002.

"Board" means the hoisting machine operators' advisory board.

"Direct supervision" means that a certified hoisting machine operator is visible to the operator of the hoisting machine or in voice contact with the operator at the site where the work is being performed.

"Director" means the director of the department of labor and industrial relations or the director's designee.

"DOT" means state department of transportation.

"NCCCO" means National Commission for the Certification of Crane Operators.

"State" means State of Hawaii. [Eff 12/6/02]
(Auth: HRS §396-4) (Imp: HRS §§396-4, 396-19)

§12-48-4 Hoisting machine operators' advisory board. The board shall be composed of five members from both organized labor and management employers. The members are to serve without compensation and without reimbursement for expenses. Members shall be appointed by the governor and may adopt rules pursuant to chapter 91, Hawaii Revised Statutes, for carrying out the purposes of the hoisting machine operators' advisory board.
[Eff 12/6/02] (Auth: HRS §396-4) (Imp: HRS §§396-4, 396-19)

§12-48-5 Certificate required. (a) No person shall operate a hoisting machine in the State without a current State issued hoisting machine operator certificate except as identified in this section.

- (b) Each hoisting machine operator shall have in their possession a valid certificate during the operation of a hoisting machine.
- (c) An operator must have a current physical examination certificate as required in section 12-48-6(b) at all times. Such proof, must be submitted upon request to the director within two hours of request.
- (d) A hoisting machine operator certificate is not required for operator assistants, apprentices, oilers, assistants to the engineers, and trainees, provided they are under the direct supervision of a certified hoisting machine operator at all times while operating a hoisting machine and they meet the training requirements of ASME B30.5.
- (e) A hoisting machine operator certificate is not required for persons performing maintenance or inspection work. [Eff 12/6/02] (Auth: HRS §396-4) (Imp: HRS §§396-4, 396-19)

§12-48-6 Application process. (a) An applicant for a hoisting machine operator certificate shall be at least twenty-one years of age at the time of application and provide proof of age by submitting a valid original of any two of the following for the purpose of photocopying:

- (1) Birth certificate;
- (2) Driver's license;
- (3) Passport; or
- (4) Hawaii state ID.

(b) Applicant must have passed a physical examination that meets the requirements of ASME B30.5, Section 5-3.1.2(a), and evidence such examination by submitting a complete and current copy of one of the following:

- (1) NCCCO medical examiner's certificate; or
- (2) A DOT certificate of medical examination.

(c) At the time of application, an applicant must provide a current NCCCO certificate or an equivalent form of certification that is accepted by the board that possesses hoisting machine operation experience as required for the NCCCO written exam. A copy of the NCCCO experience form is acceptable.

(d) Applications shall be submitted on forms provided by the director. A completed application shall consist of the form provided by the director that is completely answered by the applicant, the application fee, and all supporting documents required in subsections (a) through (c), unless applying for a special certification, in which case section 12-48-7(b) applies in lieu of subsection (c). A completed application shall be submitted to the director.

(e) The director shall notify the applicant whether the application was approved or disapproved within sixty calendar days of receipt of a completed application. Approved applicants must submit the required certification fee within thirty calendar days or must re-apply. The director shall issue the state hoisting machine operator certificate within thirty days of receipt of the fee.

(f) For initial applications only, the state certificate shall be valid for the balance of any current NCCCO certification or other equivalent board-accepted certification plus the term of any approved renewal NCCCO certification or its equivalent. The applicant must submit proof of such approved renewal at the time the application fee is submitted. [Eff 12/6/02] (Auth: HRS §396-4) (Imp: HRS §§396-4, 396-19)

§12-48-7 Special certification. (a) A special certificate is available for an applicant who cannot

meet the requirements identified in section 12-48-6(c) and the applicant works for only one employer and operates only specific hoisting machines as identified by the applicant's employer.

(b) At the time of application the applicant's employer must certify in writing to the director that it has provided operator training to the applicant that meets the training qualifications of ASME B30.5 for the specific hoisting machine or machines identified in the application. The applicant must comply with sections 12-48-6(a), (b), and (d).

(c) A special certificate is valid for two years or until the holder terminates employment with the employer, whichever comes sooner. A special certificate is not renewable and is valid for only those hoisting machines specifically identified on the certificate.

(d) A special certificate is nontransferable. A special certificate shall be issued only once to an operator.

[Eff 12/6/02] (Auth: HRS §396-4) (Imp: HRS §§396-4, 396-19)

§12-48-8 Renewals. (a) Applications for renewal of hoisting machine operator certificates shall be made on forms provided by the director and must be submitted to the director with a nonrefundable renewal fee. Renewal applications must be submitted with the required forms identified in sections 12-48-6(b) and (c).

(b) The application for renewal must be filed with the director no later than ninety days after the expiration of the current certificate. Renewals will be granted or denied within sixty days of the receipt of a complete renewal application as defined in subsection (a).

(c) If an application for renewal is filed ninety-one days or more after the expiration of the current certificate, it shall be considered a new application.

(d) State-issued renewal certifications shall be valid for the balance of the NCCCO certification or other equivalent certification that is accepted by the board, but not to exceed five years. [Eff 12/6/02] (Auth: HRS §396-4) (Imp: HRS §§396-4, 396-19)

§12-48-9 Denials, suspensions, and revocations.

(a) The director may deny, suspend, or revoke the certificate of a holder for any of these reasons:

(1) A violation of ASME B30.5;

- (2) Non-compliance with an order of the director within the time specified in the order;
 - (3) Proof that the applicant or holder has been convicted of a crime directly related to the applicant's possible performance under the certificate applied for and where the applicant has not been sufficiently rehabilitated to warrant the public trust;
 - (4) Proof that the applicant or holder suffers from a mental or physical defect that would interfere with or prevent the applicant's safe handling of a hoisting machine;
 - (5) Providing false information or making any misrepresentation for the purpose of obtaining a certificate;
 - (6) The applicant or holder is an unlawful user of narcotics or dangerous drugs;
 - (7) A finding that the certificate holder was responsible or contributed to an accident involving a hoisting machine; or
 - (8) For any other reason which at the discretion of the director would create a hazard or risk to persons or property.
- (b) Operation of a hoisting machine in violation of ASME B30.5, may result in the suspension of certification for not less than twenty-four hours and not more than one year, or revocation of certification.
- (c) If the director makes a finding that an accident was caused by the actions or omissions of the certificate holder and the director suspends or revokes the holder's certificate, the director may require the certificate holder to retake and pass the certification examination before applying to have his or her certification reinstated.
- (d) A person whose certificate has been revoked may apply for certification not less than one year after the date of revocation. [Eff 12/6/02] (Auth: HRS §396-4) (Imp: HRS §§396-4, 396-19)

§12-48-10 Appeals process. (a) Any denial, revocation, or suspension shall be final and conclusive against the applicant or holder unless a written notice of contest is filed with the director. The written notice of contest shall be an original, served on the director and must be postmarked, or if not mailed, received by the director within twenty calendar days of the denial, revocation, or suspension.

(b) The department shall hold the appeals hearing within thirty calendar days of receipt of the written request. The reconsideration hearing shall be de novo

and its findings may be contested on the record only to the hawaii labor relations board.

(c) The applicant or holder may request an informal conference to discuss the denial, revocation, or suspension, but the informal conference shall not suspend or change the twenty-day filing requirement for the notice of contest.

(d) Upon notice of revocation of a state hoisting machine operator certificate, the operator shall immediately surrender to the department the revoked state hoisting machine operator certificate. [Eff 12/6/02] (Auth: HRS §396-4) (Imp: HRS §§396-4, 396-19)

§12-48-11 Fees. (a) The applicant shall submit the completed application form to the director with a \$50 application fee.

(b) After the applicant is notified of approval, the applicant shall remit a \$500 certification fee within thirty calendar days to the director. For certification periods of less than five years, the fee is prorated to a year or portion of a year. The fee for one year or a fraction of one year is \$100.

(c) Upon approval for a special certificate, the applicant shall remit a \$300 fee to the director within thirty calendar days to the director.

(d) Renewal applications shall be submitted to the director and accompanied with the renewal fee of \$500.

(e) All application and certification fees are nonrefundable. [Eff 12/6/02] (Auth: HRS §396-4) (Imp: HRS §§396-4, 396-19)